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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,324	02/13/2002	Fredrick S. Liljegren		4559

7590

09/27/2002

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EXAMINER

ELLINGTON, ALANDRA

ART UNIT

PAPER NUMBER

2855

DATE MAILED: 09/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/073,324

Applicant(s)

LILJEGREN ET AL.

Examiner

Alandra N Ellington

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "first taper", "second taper", "first angled portion", "second angled portion", "common edge", slanted end portions", "tapered vessel", "angled side wall", "sprinkler", "V-shaped terminal edge", "top edge three integral flanges", "V-shaped channel", "supported ground surface", and "top edge" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites "stacking of said device on a further said device" which makes the statement unclear and ambiguous, due to only one device being previously mentioned.

Claim 12 recites "said flanges of the vessel" which makes the statement unclear and ambiguous, due to there being no previously mention of flanges of the vessel.

Claims 13-16 recite "the apparatus" which makes the statement unclear and ambiguous. Is the apparatus referring to the stackable device?

Claim 17 recites " a top edge three integral flanges equally spaces around the top edge" which makes the statement unclear and ambiguous. How can the "top edge three integral flanges" be spaced around the top edge? Are the top edge and the three integral flanges two different objects in the invention?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,343,732 to Glynn. Glynn discloses a measuring cup device as claimed (see Figs. 1-8 and respective portions of the specification).

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Referring to claim 1, Glynn discloses a measuring cup device 1 for use with a water sprinkler in evaluating sprinkler performance, said device 1 comprising:

A measuring cup 21,2 including measurement markings 15 along at least one side thereof and a closed bottom end 11 (col. 2 lines 35-39 {Figs. 4B,4C}); and

A plurality of legs 27, formed integrally with said cup 21,2 and extending beyond the bottom end 11 of said cup 21,2, for supporting the device 1 in an upright position in the ground, said legs 27 including pointed end portions for enabling the legs 27 to be stuck into the ground to support the device 1 (col. 2 lines 63-64 {Fig. 1}).

Referring to claim 2, Glynn discloses the device 1 of claim 1 wherein said cup 21,2 is a tapered shape having a smaller end terminating at said closed bottom 11 (Fig.3).

Referring to claim 3, Glynn discloses the device 1 of claim 1 wherein said cup 21,2 comprises a first tapered portion having a first taper and a second tapered portion having a second, different taper (col. 2 lines 55-63 {Fig. 2}).

Referring to claim 4, Glynn discloses the device 1 of claim 3 wherein said first and second portions are both annular in cross section (Fig. 1).

Referring to claim 5, Glynn discloses the device 1 of claim 1 wherein said cup 21,2 has measurement markings 15 along two sides thereof (Figs. 4B,4C).

Referring to claim 7, Glynn discloses the device 1 of claim 1 wherein said cup 21,2 includes an annular edge defining an opening at an end of said cup 21,2 opposite to said closed end 11 (Fig.1).

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Referring to claim 11, Glynn discloses the device 1 of claim 1 wherein said cup 21,2 and said legs 27 are of a shape permitting stacking of said device 1 on a further said device 1 (col. 2 lines 54-55).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 8-10, 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glynn in view of Villelli.

Glynn discloses a measuring cup device 1 comprising a measuring cup 21,2, measurement markings 15, closed bottom end 11, plurality of legs 27, pointed end portions (Fig. 1), tapered shape having a smaller end (Fig. 3), first tapered portion having a first taper and a second tapered portion having a second taper (col. 2 lines 55-63 {Fig. 2}), measurement markings along two sides (Figs. 4B,4C), annular edge defining an opening at an end of said cup (Fig. 1), stackable shape (col. 2 lines 54-55), tapered vessel 21,2, angled side wall (Fig. 2), open top (Fig. 1), device composed of plastic (col. 2 lines 64-67), and central tapered cup 21,2, V-shaped channel (col. 2 lines 50-51). However, Glynn does not teach a plurality of flanges, legs in a V-shaped confirmation, first and second angles portions, and slanted end portions (cl 8-cl 10, cl 12, cl 13, cl 17). Also, Glynn does not implicitly teach measurement markings that comprise inches and centimeters (cl 6, cl 16).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to have measurement markings in inches and centimeters since it was known in the art that there were measurement markings that indicated the amount of fluid in a device.

Villelli teaches a plurality of flanges 32,33, legs in a V-shaped confirmation (Fig. 1), first and second angled portions 31, and slanted end portions 27,28 for the purpose of increasing resistance to withdrawal from the ground or earth (cl 8-cl 10, cl 12, cl 13, cl 17).

Since Glynn and Villelli are both from the same field of endeavor, the purpose disclosed by Villelli would have been recognized in the pertinent art of Glynn.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify Glynn with the teachings of Villelli as noted above to include a plurality of flanges, legs in a V-shaped confirmation, first and second angles portions, and slanted end portions for the purpose of having an apparatus used to determine the volume of liquid in a vessel and able to minimize resistance to driving into the earth.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1 Morgenstern et al. U.S. Patent No. 5,839,660 discloses a sprinkler system that has measurement markings that comprise inches.

2. Filan et al. U.S. Patent 4,171,095 discloses three legs with pointed ends similar to claimed invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alandra N. Ellington whose telephone number is (703)305-4449. The examiner can normally be reached on Monday - Friday, 6:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin Fuller can be reached on (703)308-0079. The fax phone numbers for the organization where this application or proceeding is assigned are (703)306-7725 for regular communications and (703)305-3839 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1782.

Alandra Ellington
A.U. 2855

ANE
September 23, 2002

A handwritten signature in black ink, appearing to be 'W. Oen', with a stylized, flowing script.

William Oen
Primary Examiner